

CARL J. KUNASEK  
CHAIRMAN

JAMES M. IRVIN  
COMMISSIONER

RENZ D. JENNINGS  
COMMISSIONER



0000157785



JAMES MATTHEWS  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: January 24, 1997

DOCKET NO: U-3155-96-527, U-3310-96-527 and E-1051-96-527

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

GST Tucson Lightwave, Inc., GST Net (AZ), Inc. and  
U S WEST Communications, Inc. (Arbitration)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 5:00 p.m. on or before:

February 3, 1997

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

February 4, 1997 and February 5, 1997

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

  
James Matthews  
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 CARL J. KUNASEK  
CHAIRMAN

3 JIM IRVIN  
COMMISSIONER

4 RENZ D. JENNINGS  
COMMISSIONER

5 IN THE MATTER OF THE PETITION OF GST )  
6 TUCSON LIGHTWAVE INC. AND GST NET )  
7 (AZ), INC. FOR ARBITRATION OF AN )  
INTERCONNECTION AGREEMENT WITH )  
8 U S WEST COMMUNICATIONS, INC. )  
PURSUANT TO 47 U.S.C. § 252(b) OF THE )  
TELECOMMUNICATIONS ACT OF 1996. )

DOCKET NO. U-3155-96-527  
DOCKET NO. U-3310-96-527  
DOCKET NO. E-1051-96-527

DECISION NO. \_\_\_\_\_

9 **ORDER**

10 Open Meeting  
February 5, 1997  
11 Phoenix, Arizona

12 **BY THE COMMISSION:**

13 On October 15, 1996, GST Tucson Lightwave, Inc. ("GSTT") filed with the Arizona Corporation  
14 Commission ("Commission") a Petition for Arbitration ("Petition") pursuant to 47 U.S.C. § 252(b) of  
15 the Telecommunications Act of 1996 ("Act") to establish an interconnection agreement ("Agreement")  
16 with U S WEST Communications, Inc. ("U S WEST"). By Procedural Order dated October 21, 1996,  
17 an arbitration was scheduled for January 2, 1997, at the Commission's offices in Phoenix. On November  
18 5, 1996, U S WEST filed its Response to the Petition. On December 6, 1996, GST and U S WEST filed  
19 a stipulation to add GST Net (AZ) Inc. ("GSTN") as a co-petitioning party to this arbitration proceeding.<sup>1</sup>

20 The parties notified the Commission that they had resolved most of the issues regarding  
21 interconnection, that a hearing was not necessary, and that the remaining issues would be submitted in  
22 briefs and pre-filed testimony for the Commission's determination. The parties submitted closing  
23 arguments in writing on January 21 and 22, 1997.

24 **DISCUSSION**

25 On February 8, 1996, President Clinton signed the Act into law which established new  
26 responsibilities for the Federal Communications Commission ("FCC") as well as for the various state  
27

28 \_\_\_\_\_  
<sup>1</sup> GSTT and GSTN will be collectively referred to as GST in this Decision.

1 commissions.<sup>2</sup> On July 2, 1996, the FCC issued *Telephone Number Portability*, CC Docket No. 95-116,  
2 First Report and Order and Further Notice of Proposed Rulemaking, FCC 96-268 ("TNP Order"), which  
3 established rules so that a customer who changes his local exchange carrier ("LEC") in the same local  
4 service area may keep the same telephone number. On July 22, 1996, the Commission in Decision No.  
5 59762 adopted A.A.C. R14-2-1501 through A.A.C. R14-2-1507 ("Arbitration and Mediation Rules"),  
6 which authorized the Hearing Division to establish procedures and conduct arbitrations. Also on July  
7 22, 1996, the Commission in Decision No. 59761 adopted A.A.C. R14-2-1301 through 1311  
8 ("Interconnection Rules"), to govern the interconnection of local exchange services between incumbent  
9 LECs ("ILECs") and competing LECs ("CLECs"). On August 8, 1996, the FCC released *Implementation*  
10 *of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, First  
11 Report and Order, FCC 96-325 ("Order") and *Implementation of the Local Competition Provisions of*  
12 *the Telecommunications Act of 1996*, CC Docket No. 96-98, Second Report and Order and Memorandum  
13 Opinion and Order, FCC 96-333, in which the FCC adopted initial rules ("Rules") designed to  
14 accomplish the goals of the Act.<sup>3</sup>

15 Pursuant to the Act, telecommunications carriers desiring to interconnect with the facilities and  
16 equipment of an ILEC may negotiate the terms of such interconnection directly with the ILEC. If the  
17 parties are unsuccessful in negotiating an Agreement, any party to the negotiation may request the  
18 Commission to arbitrate any open issues regarding interconnection. The Act requires the Commission  
19 to resolve any such issues within 180 days of a telecommunications carrier's initial request to the ILEC  
20 for interconnection.

21 Pursuant to § 252 of the Act, state commissions are required to determine just and reasonable  
22 rates for interconnection and network elements based on the cost of providing the interconnection or  
23 network element which are nondiscriminatory and may include a reasonable profit. For resale services,  
24 rates are to be the wholesale rates based on retail rates excluding costs of marketing, billing, collection  
25

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26 <sup>2</sup> As part of the Act, the FCC was ordered to issue regulations no later than August 8, 1996  
27 interpreting many of the broad and general terms of the Act.

28 <sup>3</sup> Unless otherwise noted, any reference to "Para." in this Decision is to Paragraphs in the  
Order.

1 and other costs avoided by the LEC. The Commission's Interconnection Rules require the use of total  
2 service long run incremental costs ("TSLRIC") to determine costs.

3 Our October 21, 1996 Procedural Order directed the parties to provide a joint pre-arbitration  
4 statement which set forth their positions and the manner in which their disagreement should be resolved  
5 by the arbitrators, a proposed Agreement, a list of witnesses and a summary of their testimony, as well  
6 as exhibits. The FCC's Rules issued on August 8, 1996, required the use of total element long run  
7 incremental costs ("TELRIC"). TELRIC includes the forward-looking costs that can be attributed  
8 directly to the provision of services using that element, and includes a reasonable share of the forward-  
9 looking joint and common costs.

10 On August 30, 1996, a Procedural Order was issued which consolidated the appropriate portions  
11 of the dockets of interconnection arbitrations between U S WEST and several other CLECs to consider  
12 the cost studies submitted by U S WEST in each of those dockets. The Procedural Order indicated that  
13 interim rates would be set in accordance with the Order, at the proxy ceilings or mid-points of proxy  
14 ranges set forth by the FCC, unless a party showed that an alternate interim price consistent with the  
15 proxies would be appropriate. The interim rates would be subject to true-up upon establishment of prices  
16 based upon Commission-approved cost studies. On September 25, 1996, U S WEST filed cost studies  
17 in the consolidated docket, which included avoided cost as well as TELRIC cost studies. The materials  
18 were voluminous and complex.

19 Our Procedural Order dated October 21, 1996, consolidated the appropriate portions of this  
20 proceeding with similar portions of the dockets of interconnection arbitrations between U S WEST and  
21 several other CLECs to consider the cost studies submitted by U S WEST in each of those dockets. The  
22 cost studies will be used to set prices for all CLECs in U S WEST's service area. Consolidating the cost  
23 study review allows input from the initial CLECs and provides for consistency in the Commission's  
24 determination of costs. A separate review of the cost studies in each arbitration could result in varying  
25 conclusions, depending upon the competitors' resources available to respond to the studies and the  
26 capabilities of each party's witness. The CLECs need sufficient time to review and prepare testimony  
27 in response to the cost studies, and the Commission needs to have adequate time to review the  
28 conclusions reached by the parties.

1 U S WEST, as well as the CLECs, will not be harmed by the use of the interim prices. The cost  
2 studies were analyzed at a consolidated arbitration commencing on November 18, 1996, with a Decision  
3 expected in early 1997.

4 On September 27, 1996, the United States Court of Appeals for the Eighth Circuit ("Court")  
5 issued an Order Setting Hearing and Imposing Temporary Stay. Oral arguments on the motions  
6 requesting stay until judicial review of the FCC's Order were held on October 3, 1996, and on October  
7 15, 1996, the Court stayed the operation and effect of the FCC's Rules' "pricing provisions and the 'pick  
8 and choose' rule" pending the Court's final determination of the issues raised in the petitions for review.  
9 Given the time constraints imposed by the Act in this proceeding; the fact that a Decision has not been  
10 rendered on the cost study portion of the arbitration; and the Court's issuance of a stay of the pricing  
11 provisions of the Rules, the Commission has no choice but to approve prices that we believe are the most  
12 reasonable, based on the information provided, whether it is the cost studies submitted by the parties, or  
13 the final offers of the parties which in some cases may reflect the proxy ranges set forth by the FCC.  
14 Since these will be interim prices, we find that there will be no irreparable harm to the parties.

15 Pursuant to § 252(b)(4)(C), the Commission hereby resolves the issues presented for arbitration.

16 **Pole and Anchor Attachment - Scope of Agreement**

17 **GST's position**

18 GST believes that under the Act and Rules, U S WEST has the obligation to provide access to  
19 poles, ducts, conduits or rights of way even if such access entails the need to take affirmative steps,  
20 including expanding existing facilities, to accommodate GST's access.

21 **U S WEST's position**

22 U S WEST indicates that it will provide access to poles, interducts, conduits and rights of way  
23 based on agreements individually negotiated with each party requesting access.

24 **Commission's resolution**

25 Order Para. 1163 requires utilities to take all reasonable steps to accommodate requests for access  
26 where a facility lacks capacity. We therefore require U S WEST to take reasonable steps to accommodate  
27 requests for access to poles, ducts, conduits and rights of way, including modifying its facilities to  
28 increase capacity. Furthermore, according to the Order, U S WEST must provide access on a

1 nondiscriminatory basis.

2 **Termination Charges: Charges and Billing**

3 **GST's position**

4 GST proposes to pay an annual fee for use of U S WEST's poles and conduits, but proposes that  
5 if it terminates a pole or conduit agreement early, it be reimbursed for the unused months after it notifies  
6 U S WEST of the termination, and that it have 60 days to remove its facilities.

7 GST also contends that it should have 60 days from the receipt of an invoice to pay the fees and  
8 charges associated with its pole or conduit agreements with U S WEST and that no finance charges  
9 should apply to its payments.

10 **U S WEST's position**

11 U S WEST believes that pole or conduit agreements should be annual agreements and the fees  
12 should be prepaid and nonreimbursable. In the event of early termination, U S WEST proposes that it  
13 be permitted to keep the rental paid for the balance of the year. U S WEST also desires to recover from  
14 GST its other costs associated with early termination of a pole or conduit agreement. U S WEST argues  
15 that payments 30 days from the date of the invoice is standard in the industry and in U S WEST's other  
16 pole attachment agreements and states that it proposed finance charges only for late payments. In  
17 addition, U S WEST requests that it be permitted to recover from GST its costs associated with billing  
18 and collecting fees owed by GST.

19 **Commission's resolution**

20 GST should pay for all months in which it has equipment in place on U S WEST's poles and  
21 conduits. U S WEST is permitted to require GST to contract for a year-long period for access, and to  
22 require full payment in advance, but GST must be permitted to terminate such contracts on 30 days  
23 notice.

24 One of the issues in the consolidated cost proceeding was whether non-recurring costs will be  
25 recovered through an up-front charge or built into the TELRIC price. GST should only be refunded that  
26 portion of its payment attributable to recurring costs.

27 Thirty days from the date of the invoice is a reasonable period for GST to make payment for a  
28 pole or conduit agreement. It is also reasonable for U S WEST to impose reasonable finance charges for

late payments and to be able to recover its reasonable costs of collecting delinquent payments from GST.

**Response to Requests for Space**

**GST's position**

GST proposes that U S WEST respond concerning availability of space on poles, ducts, conduits or rights of way within 20 business days of receiving a request.

**U S WEST's position**

U S WEST proposes that it have 45 days to provide access or confirm denial of access.

**Commission's resolution**

We adopt GST's proposal as the more reasonable approach and will require U S WEST to provide information on availability of space on poles, ducts, conduits or rights of way to GST within 20 business days or when it would provide it to itself, affiliates or other carriers, whichever is earlier.

**Reservation of Space**

**GST's position**

GST proposes to be able to reserve space for as long as 90 days from the date of reservation on U S WEST's poles and in its ducts and conduits at a fee equal to U S WEST's current Arizona prescribed cost of capital.

**U S WEST's position**

U S WEST indicates that it will provide access to poles, interducts, conduits and rights of way on a first come, first served basis. If required to take reservations, U S WEST argued that it should be permitted to recover from GST its costs associated with operating the reservation system.

**Commission's resolution**

We recognize that GST's reservation of space does provide value to the detriment of U S WEST and other carriers, and we will permit U S WEST to charge a reservation fee equal to U S WEST's currently approved cost of capital for reservations of up to 90 days. After the expiration of the reservation period, GST must either begin paying the approved rate for access, whether or not it has actually installed conduit or cable, or otherwise release its reservation.

...

...

**Resolution of Pole Attachment Disputes****GST's position**

GST opposes U S WEST's proposal to impose binding AAA arbitration as the dispute resolution mechanism between the parties. GST proposes that disputes should be resolved by negotiations or non-binding arbitration. GST is not willing to forego, and argues that it cannot be required to forego, the rights and remedies available under applicable state and federal laws, including, but not limited to the Act, Rules and this Commission's regulations, which include the resolution of interconnection disputes before the Commission, the FCC and courts of competent jurisdiction.

**U S WEST's position**

U S WEST argues that commercial arbitration has worked successfully for years in the context of pole attachment agreements, permitting resolution of controversies more quickly and economically than by resorting to formal legal proceedings. U S WEST claims that whatever risk GST bears from reliance on binding arbitration is also borne by U S WEST and is outweighed by the benefits of binding arbitration.

**Commission's resolution**

We are somewhat perplexed by U S WEST's position taken in its closing brief. In its brief, U S WEST refers to the testimony of Susanne Mason at page 31 in support of a binding arbitration process. Ms. Mason's testimony, however, is silent as to whether the arbitration process she proposes is binding or non-binding. The dispute resolution process outlined in the proposed agreement attached to Ms. Mason's testimony specifically refers to non-binding arbitration (p. 74).

We decline to impose binding arbitration as the sole dispute mechanism between the parties. The Act makes no provision for and imposes no requirement relating to dispute resolution. We accept GST's proposal that disputes over leasing of pole attachments, ducts, conduits and rights of way be resolved by negotiations or non-binding arbitration.

**Resale Discount Rate****GST's proposal**

GST proposes that resale services should be priced at U S WEST's retail rate less an interim discount of 17 percent until the Commission can determine U S WEST's actual avoided costs.



1 U S WEST's proposal

2 U S WEST argues that the appropriate interim resale discount should be set individually, based  
3 on U S WEST's TELRIC studies filed in the consolidated cost proceeding. Further, U S WEST contends  
4 that the discount rate proposed by GST is the low end of the FCC resale proxy range which was stayed  
5 by the Eight Circuit Court of Appeals and should not be relied upon.

6 Commission's resolution:

7 Based on all the evidence presented, we find that the most reasonable discount submitted in this  
8 arbitration proceeding was a discount rate of 17 percent. Therefore, we will adopt an interim discount  
9 rate of 17 percent, to apply to all resale services until the Commission completes its evaluation of the cost  
10 studies.

11 Resale Services Eligible for a Resale Discount

12 GST's position

13 GST argues that all of U S WEST's telecommunications services available to U S WEST retail  
14 customers must be available for resale at a wholesale discount, including private line, Centrex, residential  
15 service, and discounted service packages. GST opposes limiting resold telecommunication services to  
16 U S WEST's intended or disclosed use.

17 U S WEST's position

18 U S WEST proposes that resale of services be permitted only for their intended or disclosed use,  
19 under the same terms and conditions applicable to U S WEST's end users, and only to the same class of  
20 customers eligible to purchase those services from U S WEST. U S WEST opposes GST's desire to  
21 purchase Centrex/Centron services, designed for business customers, and resell them to residential  
22 customers who are ineligible under existing U S WEST tariffs.

23 U S WEST argues that where a service is discontinued, it should not be subject to resale, except  
24 where that service is grandfathered.

25 U S WEST opposes making voice mail, inside wire maintenance and promotions of fewer than  
26 90 days available for resale. U S WEST argues that voice mail is an information service, not a  
27 telecommunication service. U S WEST cites Order, Para. 872, which indicates that services which are  
28 to be provided for resale are those listed in the ILEC's tariffs. Voice mail and inside wire maintenance

1 are not listed in U S WEST's tariffs. The FCC, at Para. 950, indicated that promotions of fewer than 90  
2 days need not be offered for resale.

3 U S WEST indicated it is willing to make certain services available for resale, but argues that they  
4 should not be subject to any wholesale discount. U S WEST claims that private line services are already  
5 discounted, and should not be further discounted. In addition, U S WEST's private line and special access  
6 tariffs were merged into a single tariff pursuant to Decision No. 57109 (September 21, 1990). The FCC  
7 Order provides that there need not be any wholesale discount on special access services (Paras. 873-874).  
8 Therefore, U S WEST claims that private line service should not receive a resale discount. U S WEST  
9 claims that the prices of services offered at volume or term discounts already reflect discounts for  
10 avoiding many of the usual costs of retail selling, and therefore should not be further discounted. U S  
11 WEST also claims that residential service is already priced below cost, and therefore should not be  
12 subject to a further discount.

13 Commission resolution

14 Voice mail and inside wire maintenance are not telecommunications services, and also are  
15 presently available on the open market. Neither voice mail nor inside wire maintenance is a type of  
16 service which the Act was designed to make available to CLECs. It is not necessary for U S WEST to  
17 offer voice mail or inside wire maintenance to GST for resale.

18 Promotional offerings of ninety days or less need not be subject to a resale discount, pursuant to  
19 Order Para. 950.

20 Regardless of the merging of private line and special access tariffs, private line service is offered  
21 to end-user customers, and therefore it should be made available for resale at a discount.

22 A volume or term discount reflects operational efficiencies associated with purchases in bulk.  
23 A wholesale discount, on the other hand, reflects the lower costs resulting from avoiding certain retail  
24 sales expenses, such as billing and collection costs. We will require U S WEST to offer its volume and  
25 term discounted services at an appropriate wholesale discount. We acknowledge that discounted services  
26 may not have as high an avoided cost as full-priced services.

27 The wholesale discounting requirement of the Act makes no exceptions for services which may  
28 be offered at less than cost. We will therefore require U S WEST to make its residential services

1 available for resale at a wholesale discount.

2 We find that U S WEST must offer Centrex for resale at the appropriate discount. Centrex may  
3 be resold by GST only to those end-user customers eligible to purchase the service directly under the U S  
4 WEST tariff.

5 We will restrict the resale of grandfathered services to those end-user customers qualifying under  
6 the applicable grandfather provisions.

7 **INP Switched Access Charges**

8 **GST's position**

9 GST believes that interim number portability ("INP") should be provided using the Remote Call  
10 Forwarding method. GST believes the INP switched access charges should be recovered through a meet-  
11 point billing arrangement like that approved under the TNP Order Para. 140. In that Order, the FCC  
12 required apportionment of the costs of INP among relevant carriers by using any of several competitively  
13 neutral allocators, including number of active telephone lines. Under a meet-point billing arrangement  
14 the terminating carrier would receive the carrier common line charge, end office charges, transport  
15 interconnection charge, and some portion of the tandem-switched transport element. The tandem-  
16 switching carrier would receive the balance of the tandem-switched transport element and all of the  
17 tandem switching and entrance facility charges.

18 GST argues that U S WEST's preference that the terminating carrier receive only the carrier  
19 common line charge based on minutes per month is inconsistent with the FCC regulations.

20 **U S WEST's position**

21 U S WEST proposes that it retain the local switching and transport charges it receives from  
22 interexchange carriers when forwarding calls to GST. As a compromise, U S WEST proposes to credit  
23 GST for carrier common line charges based on average minutes of use per number per month.

24 **Commission's resolution**

25 We adopt the FCC's determination of acceptable cost recovery mechanisms. We will require an  
26 annual surcharge for number portability to be assessed based upon each carrier's number of ported  
27 telephone numbers relative to the total number of active telephone numbers in the local service area, as  
28 follows:

1 The reasonable and specific costs incurred by U S WEST solely to implement INP will  
2 be charged to all carriers, including ILECs, on the basis of taking such costs and dividing  
3 by the total number of lines in service for each provider, and then multiplying that per line  
amount times the number of ported numbers of each carrier providing service via ported  
numbers.

4 This method is the first INP cost recovery method recommended by the FCC in the TNP Order, Para.  
5 136. While this is not a generic proceeding and therefore we cannot order all carriers to comply with the  
6 payment method at this time, we anticipate ordering each carrier to comply as part of its interconnection  
7 proceeding. Our consistent application of this requirement should achieve the competitively neutral cost  
8 recovery mandated by the Act.

9 The Commission will adopt the TNP Order Para. 140 regarding distribution of the terminating  
10 charges.

### 11 Directory Listings

#### 12 GST's position

13 U S WEST should provide nondiscriminatory white pages directory listings to GST's customers  
14 in the same manner that it provides such listings to U S WEST's own customers. GST argues that U S  
15 WEST or U S WEST DIRECT, its directory assistance affiliate, should include in the information pages  
16 or call guide pages of its white pages directories for areas served by GST and listings provided by GST  
17 for GST's installation, repair, and customer service information, including appropriate identifying GST  
18 logo. These should appear in the same manner that such information appears for subscribers of U S  
19 WEST and of other LECs, and should be at no charge. U S WEST or its directory affiliate should allow  
20 GST customers to maintain uninterrupted yellow pages advertising in U S WEST's yellow pages  
21 directory, and at nondiscriminatory rates, terms and conditions. Finally, GST wants U S WEST's  
22 directory affiliate to distribute current editions of the white pages and yellow pages directories in areas  
23 served by GST to GST customers on a nondiscriminatory basis, free of charge, and in an equal manner  
24 as they are provided to subscribers of U S WEST and other LECs.

#### 25 U S WEST's position

26 U S WEST has offered to provide one white pages directory listing for GST customers, and  
27 updated customer addresses and number change information on a daily basis through its Expanded Use  
28 Updates. U S WEST states that GST's problems with respect to this issue stem from its failure to

negotiate an agreement with U S WEST DIRECT which publishes the Yellow and White Pages directories. U S WEST argues that U S WEST DIRECT is a distinct entity from U S WEST and is not a party to this proceeding. U S WEST proposes that the Commission instruct GST to proceed with discussions with U S WEST DIRECT instead of introducing these demands in this proceeding.

Commission's resolution

Consistent with our resolution of this issue in other arbitration proceedings, we will retain jurisdiction over this issue and resolve it if GST is not satisfied with the outcome of its negotiations with U S WEST DIRECT. We expect U S WEST DIRECT to provide the same treatment to GST as it provides to U S WEST with respect to White Pages and Yellow Pages matters.

The parties will be instructed to prepare for the Commission's review an interconnection agreement incorporating the issues resolved by arbitration.

\* \* \* \* \*

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

**FINDINGS OF FACT**

1. GSTN has applied to the Commission for authority to provide competitive telecommunications services to the public in Arizona.
2. U S WEST is certificated to provide local exchange and intraLATA telecommunications services to the public in Arizona pursuant to Article XV of the Arizona Constitution.
3. On October 15, 1996, GSTT filed with the Commission a Petition pursuant to the Act.
4. On November 5, 1996, U S WEST filed its Response to the Petition.
5. By Procedural Order dated October 21, 1996, an arbitration was scheduled for January 2, 1997, at the Commission's offices in Phoenix.
6. On December 6, 1996, GSTT and U S WEST filed a stipulation to add GSTN as a co-petitioning party in this arbitration proceeding.
7. The parties submitted pre-filed testimony, and agreed that the outstanding issues should be resolved based on that testimony and testimony presented in the consolidated cost docket. Therefore, the arbitration hearing was not convened.

8. On January 21 and 22, 1997, the parties submitted a closing memorandum, which summarized the issues still unresolved and presented each party's proposed resolution of the issues.

9. The Commission has analyzed the issues presented by the parties and has resolved the issues as stated in the Discussion above.

10. The Commission hereby adopts the Discussion and incorporates the parties' positions and the Commission's resolution of the issues herein.

11. Pursuant to A.A.C. R14-2-1506.A, the parties will be ordered to prepare and sign an interconnection agreement incorporating the issues as resolved by the Commission, for review by the Commission pursuant to the Act, within thirty days from the date of this Decision.

## CONCLUSIONS OF LAW

1. GSTN is a public service corporation within the meaning of Article XV of the Arizona Constitution.

2. GSTT and GSTN are telecommunications carriers within the meaning of 47 U.S.C. § 252.

3. U S WEST is a public service corporation within the meaning of Article XV of the Arizona Constitution.

4. U S WEST is an ILEC within the meaning of 47 U.S.C. § 252.

5. The Commission has jurisdiction over GSTT, GSTN and U S WEST and of the subject matter of the Petition.

6. The Commission's resolution of the issues pending herein is just and reasonable, meets the requirements of the Act and regulations prescribed by the FCC pursuant to the Act, is consistent with the best interests of the parties, and is in the public interest.

## ORDER

IT IS THEREFORE ORDERED that the Commission hereby adopts and incorporates as its Order the resolution of the issues contained in the above Discussion.

IT IS FURTHER ORDERED that GST Tucson Lightwave, Inc., GST Net (AZ), Inc. and U S WEST Communications, Inc. shall prepare and sign an interconnection agreement incorporating the terms of the Commission's resolutions.

**IT IS FURTHER ORDERED** that the signed interconnection agreement shall be submitted to the

Commission for its review within thirty days of the date of this Decision.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JAMES MATTHEWS, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

JAMES MATTHEWS  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JR/kjd

SERVICE LIST FOR: GST TUCSON LIGHTWAVE, INC., GST NET (AZ), INC. and U S WEST COMMUNICATIONS, INC.

DOCKET NOS: U-3155-96-527, U-3310-96-527 and E-1051-96-527

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